

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI

JOHNSON & JOHNSON  
HEALTH CARE SYSTEMS INC.,

Plaintiff,

v.

EXPRESS SCRIPTS, INC.,

Defendant.

Civil Action No. 4:23-mc-527

Honorable  
United States District Judge

(Electronically Filed Document)

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**MOVANT JOHNSON & JOHNSON HEALTH CARE SYSTEMS INC.’S MOTION FOR  
SEALING MEMORANDUM OF LAW IN SUPPORT OF MOTION TO COMPEL**

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Movant Johnson & Johnson Health Care Systems Inc. (“JJHCS”), through its counsel, moves pursuant to E.D.Mo. L.R. 13.05 to file its Memorandum of Law in Support of its Motion to Compel Compliance with the Subpoena Issued to Third Party Express Scripts, Inc. (“Memorandum of Law”) under seal. As background, the above-captioned action is currently pending in the United States District Court for the District of New Jersey as Civil Action No. 22-2632 (ES)(CW), and concerns claims of tortious interference and deceptive trade practices. In said action, a subpoena (the “Subpoena”) was issued and served on Express Scripts, Inc. (“ESI”), which is headquartered in St. Louis County, for the production of relevant and nonprivileged documents. Despite efforts by JJHCS, ESI refuses to comply with the Subpoena. JJHCS now wishes to file a motion pursuant to Fed. R. Civ. P. 45(d)(2)(B)(i) asking this Court, as the place of compliance for ESI, to compel ESI to comply with the Subpoena.

The Memorandum of Law quotes from and includes materials that were designated as “Confidential” pursuant to the Discovery Confidentiality Order issued in the underlying action. *See* 22-2632 (ES)(CW) (D.N.J. Nov. 22, 2022) (Dkt. 62). Under this order, materials are designated as “Confidential” if they, among other reasons, contain trade secrets or confidential business information. *See id.* at ¶ 1. Any filing that discloses the substance of any Confidential material must be filed under seal under the Order. *See id.* at ¶ 11. Because the Memorandum of Law discloses such Confidential information, as discussed in greater detail in the accompanying Memorandum Supporting Sealing, JJHCS now asks this Court to allow the sealing of these materials indefinitely. JJHCS will file publicly a redacted version of the Memorandum of Law consistent with E.D.Mo. L.R. 13.05(A)(4)(c). However, as explained in the accompanying Memorandum Supporting Sealing, it is not practical nor possible to file publicly redacted versions of certain exhibits to the Memorandum of Law as such exhibits must be withheld in full under the Discovery Confidentiality Order.

WHEREFORE, Movant Johnson & Johnson Health Care Systems Inc. respectfully requests that this Court GRANT its Motion for Sealing Memorandum of Law in Support of Motion to Compel, and for any such other relief as this Court deems just and proper under the circumstances.

Dated: May 17, 2023

Respectfully submitted,

**HEPLERBROOM LLC**

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 17th day of May, 2023, a true copy of the foregoing was filed electronically with the Clerk of the Court and served via email to the following:

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*/s/Beth A. Bauer*